

1 handwriting.

2 A. On 1/27/96 beginning at 4:30 p.m.

3 Q. Now, I also notice that there's -- a
4 date of 2/14/96 next to two directories as opposed
5 to files.

6 Do you know why that is?

7 A. No.

8 Q. Did you -- strike that.

9 You earlier explained the difference
10 between deleting and merging?

11 A. (Witness nods head.)

12 Q. Would the system backup pick up the
13 files that were in the delete area?

14 A. Yes.

15 Q. Does the term "IPX protocol" mean
16 anything to you?

17 A. Yes.

18 Q. Could you tell us what it means to you?

19 A. I think it's the internal packet
20 exchange. It's one of the protocols to be used for
21 Network Networks.

22 Q. And do you know if that protocol was
23 the protocol for your Novell Network 3.12?

24 A. Yes, it was.

25 Q. Did that system also use an IP

1 protocol?

2 A. Yes.

3 Q. Are you aware of any bidding errors
4 that occurred prior to Round 11 by the San Mateo
5 Group?

6 A. I'm not aware of any.

7 MR. LYON: Objection as to relevance.
8 Not an issue.

9 MR. GORDIN: I'd like to go off the
10 record a minute.

11 (Brief discussion off the record.)

12 MR. GORDIN: Q. At the time that were
13 you asked by the attorneys to look for the bid data
14 file related to January 23, 1996, did you search
15 all of the errors where you thought the files --
16 that the data file might have been on the computer
17 system?

18 A. Yes.

19 MR. GORDIN: I have no further
20 questions.

21

22 EXAMINATION

23 BY MS. POWER:

24 Q. Mr. Gross, I think I was introduced
25 earlier. My name's Katherine Power from the FCC,

1 the Wireless Bureau; and I just want to ask you a
2 few questions.

3 Did there come a point in time when you
4 no longer went to the SMG offices to work there?

5 A. I don't understand.

6 Q. When did you stop working at SMG?

7 A. Oh, after the last round of bidding.

8 Q. And do you remember approximately when
9 that was?

10 A. No.

11 Q. April or May?

12 A. April or May, whenever the last round
13 was, April or May, that's when I stopped going
14 there on a daily basis.

15 Q. Did you go there after that time on an
16 intermittent basis?

17 A. I went there once for a service call
18 placed by Mr. Easton.

19 Q. Okay. Now, back to the time of the
20 bidding error, January 23rd, 1996, did Cynthia
21 Hamilton tell you that she faxed the documents that
22 she copied -- the night that you took her to your
23 Action office, did she tell you that she had faxed
24 those documents to the FCC?

25 A. She told me that she had sent them to
127

1 the FCC. I don't know how she got them there.

2 Q. Did she tell you when she did that?

3 A. I don't remember.

4 Q. Did you talk to her on January 24th,
5 the next day?

6 A. I don't think so.

7 Q. Do you remember if she told you that
8 week? That Wednesday, Thursday or Friday when she
9 sent the documents to the FCC?

10 A. Whenever I talked to her the next time,
11 which was the later that week, she said she had
12 sent them.

13 Q. Someone may have asked you this, but
14 did you tell anyone at SMG offices that
15 Ms. Hamilton had sent the FCC documents?

16 A. No.

17 Q. So you did not discuss that fact with
18 anyone at SMG?

19 A. No.

20 Q. Did you discuss Mr. Easton's
21 involvement with the bidding error with
22 Mr. Quinten Breen?

23 A. No, I don't think so.

24 Q. When did Mr. Breen ask you to prepare
25 the document No. 2, I think it was? I think it's

1 dated February 8th.

2 A. Probably the day before.

3 Q. And that was the only document that you
4 prepared per his directions?

5 A. Yes.

6 MS. POWER: That's all.

7 MR. LYON: Counsel, do you have any
8 questions?

9 MR. ALTSHULER: I have no questions.

10 MR. LYON: I have a few follow-up.

11

12 FURTHER EXAMINATION

13 BY MR. LYON:

14 Q. Mr. Gross, do you remember how much
15 volume the -- is it the Syst volume, System wide
16 volume -- had in memory?

17 A. No.

18 Q. Do you know whether it had a lot of
19 memory?

20 A. I don't know.

21 Q. Do you know if it had sufficient
22 memory, in your opinion?

23 A. No, it didn't.

24 MS. POWER: Excuse me?

25 THE WITNESS: No, it didn't.

1 MR. LYON: Q. It did not have
2 sufficient memory?
3 A. In my opinion.
4 Q. If I mentioned the words 5 MEGS of
5 memory, would that refresh your recollection
6 regarding amount of memory the Syst volume had?
7 A. No.
8 Q. But it is your recollection that its
9 memory was insufficient?
10 A. Yes.
11 Q. Drawing your attention to exhibit --
12 before I do that, if I wish to call you as a
13 witness in the Washington proceeding, do you have
14 an address where I should serve the appropriate
15 subpoena?
16 A. You can serve it to my work, like you
17 did before.
18 Q. Would you be willing to state your
19 residential address on the record?
20 A. Sure.
21 MR. ALTSHULER: I think you already
22 did.
23 THE WITNESS: Did I?
24 MR. ALTSHULER: No, maybe not.
25 MR. LYON: I didn't think he did.

1 Q. Would you please give us your address.
2 A. 23 Northridge Drive, Daly City.
3 Q. Okay, thank you, I appreciate that.
4 Drawing your attention to Exhibit 3, do
5 you have a recollection as to whether Exhibit 3 is
6 a document that you produced? I'm sorry.
7 That you caused to be produced?
8 A. I think I did.
9 Q. You think, but you don't know?
10 A. Yes. I probably was the only one that
11 could have printed this out.
12 Q. Exhibit 3 states that this -- in
13 handwriting this reflects a directory of files
14 backup and then there's a word I can't read,
15 1/27/96 beginning at 4:30 p.m.?
16 A. Uh-huh.
17 Q. Does that indicate that the document
18 was printed -- does that indicate to you that the
19 document was printed on 1/27/96?
20 A. No.
21 Q. That it was created on 1/27/96?
22 A. No, it does not.
23 Q. What does it indicate to you?
24 A. I believe I was trying to tell them
25 that this is a snapshot of the files that were in

1 this particular directory, not necessarily, but
2 this is obviously not created on 1/27.

3 Q. And why do you say that?

4 A. Two directories in there from 2/14/96.

5 Q. So --

6 A. These were just the files that were in
7 that directory not -- these are the files, the
8 bidding files that were present that day.

9 Q. On the --

10 A. On the 27th.

11 Q. That you believe were present?

12 A. Yes. That I believe was present.

13 Excuse me.

14 Q. In terms of knowing for a fact that
15 they were present, you can't say that, can you?

16 A. I would never say it.

17 MR. LYON: Nothing further.

18

19 FURTHER EXAMINATION

20 BY MR. GORDIN:

21 Q. Okay. I have a few followup.

22 You say that you believe that those
23 files were present?

24 A. Uh-huh.

25 Q. Why do you say that?

1 A. I forget. Shit. When I pulled this
2 up, this is a snapshot of all the rounds that
3 occurred prior to this date. These are the files
4 that would have been present as of the 27th.

5 MR. GORDIN: Did you get that, madam
6 reporter?

7 THE REPORTER: Yes.

8 MR. GORDIN: Nothing further.

9 MR. LYON: Nothing Further. Thank you.

10 THE REPORTER: Counsel, may I get an
11 order on the record of transcript copies?

12 MR. LYON: I would like one.

13 MR. GORDIN: Ditto.

14 MR. LYON: Of course, he's paying for
15 this one since he's -- I'll be the tag along.

16 MR. LYON: Mr. Gross, you have the
17 right to review and sign your declaration and
18 correct any errors.

19 Do you wish to exercise that right?

20 MR. ALTSHULER: Yes.

21 THE WITNESS: Yes.

22 MR. LYON: Okay. Thank you.

23 THE WITNESS: Thank you.

24 (Deposition concluded at 2:54 p.m.)

25 //

1 I, FREDERICK GROSS, declare under
2 penalty of perjury that I have read the foregoing
3 transcript, and I have made any corrections,
4 additions, or deletions that I was desirous of
5 making; that the foregoing is a true and correct
6 transcript of my testimony contained therein.

7 EXECUTED this ____ day of _____,
8 19____, at _____,
9 (City) (State)

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FREDERICK GROSS _____

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1 State of California)
2 County of San Francisco) : ss

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4 I, the undersigned, a certified
5 Shorthand Reporter of the State of California, do
6 hereby certify:

7 That the foregoing proceedings were
8 taken before me at the time and place herein set
9 forth; that any witnesses in the foregoing
10 proceedings, prior to testifying, were placed under
11 oath; that a verbatim record of the proceedings was
12 made by me using machine shorthand which was
13 thereafter transcribed under my direction; further,
14 that the foregoing is an accurate transcription
15 thereof.

16 I further certify that I am neither
17 financially interested in the action nor a relative
18 or employee of any attorney of any of the parties.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21

22 Dated: _____

23

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JILL J. BARHAM
CSR No. 7914

1 State of California)
2 County of San Francisco) : ss

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financially interested in the action nor a relative
or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date
subscribed my name.

Dated: _____


JILL J. BARHAM
CSR No. 7914